

REMARKS

Claims 55-75 are currently pending. Claims 55, 60, and 66 are amended herein. Applicants have removed the embedded hyperlinks found in the paragraphs beginning on page 20, line 14 and page 21, line 7.

Support for the amendments to claims 55 and 66 can be found on page 16, lines 21-26 of the specification, which indicate that the coccidial parasites are sanitized. Claim 60 has been amended to change "fo" to "of."

Rejection of claims 55-75 under 35 U.S.C. § 112, first paragraph

The Office has rejected claims 55-75 under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the art that applicants had possession of the claimed invention. Specifically, the Office has indicated that "the preparation can not be sterile, because such provides for killed and not live sporocysts as is claimed," and thus a sterile preparation comprising live sporocysts provides a fundamental contradiction of the accepted meaning of "sterile."

Claims 55 and 66 have been amended to indicate that the preparation is sanitized, and do not contain the term "sterile." In support of the term "sanitized," the specification states, "Following treatment, the coccidial parasites are sanitized by any suitable method. Any method that results in the destruction of microbial contaminants, but does not significantly decrease the viability of the coccidial parasites can be used."¹ The specification also describes several methods of testing for extraneous viable bacteria, fungi, and viruses that affect birds.² It is thus clear from the specification that the preparation is sanitized to remove microbial contaminants, meaning "extraneous

¹ Specification, page 16, lines 21-23.

² See Specification, p. 17, ln. 18, through p. 21, ln. 14.

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viable bacterial, viral, or fungal contaminants," and not the live sporocysts.

Furthermore, the claimed preparations are not contradictory to the accepted meaning of "sanitized," which does not require the preparation to be free from living organisms.³

The specification thus contemplates a sanitized preparation comprising live sporocysts.

Rejection of claims 55-75 under 35 U.S.C. § 112, second paragraph

The Office has rejected claims 55-75 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Office indicates that sterile is defined as "free from living organisms," and as such "a preparation can not be sterile and contain a live infectious agent (live sporocysts) at the same time."

As previously indicated, claims 55 and 66 have been amended to indicate that the preparation is sanitized, and do not contain the term "sterile." Since the term sanitized does not mean "free from living organisms,"⁴ there is no "fundamental contradiction" of the term sanitized. Applicants thus submit that the basis for this rejection has been removed.

³ Merriam-Webster's online Unabridged Dictionary defines "sanitize" as meaning "to make sanitary" or "to make more acceptable by removing unpleasant or undesired features." <http://www.m-w.com/cgi-bin/dictionary>.

⁴ See *id.*

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CONCLUSION

In light of the foregoing, applicants submit that claims 55-75 are in proper form for allowance, and request favorable consideration of the application.

The Commissioner is hereby authorized to charge any underpayment of government fees to Deposit Account No. 19-1345.

Respectfully submitted,



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